

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 20793
[REDACTED],	)	
	)	DECISION
Petitioners.	)	
_____	)	

On August 14, 2007, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers) proposing income tax, penalty, and interest for the taxable years 2003 through 2005 in the total amount of \$12,193.

On August 21, 2007, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not request a hearing but rather chose to submit income tax returns for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information that showed that the taxpayers might have a requirement to file Idaho individual income tax returns for the tax years 2003 through 2005. The Bureau researched the Tax Commission's records and found that the taxpayers did not file income tax returns for those years. The Bureau sent the taxpayers a letter asking about their requirement to file Idaho income tax returns. The taxpayers did not respond. The Bureau obtained additional information [Redacted] and determined the taxpayers should have filed Idaho individual income tax returns. The Bureau prepared income tax returns for the taxpayers and sent them a Notice of Deficiency Determination.

The taxpayers protested the Bureau's determination stating that they did not live in Idaho in 2003 and that they filed Utah income tax returns for all the years in question. The taxpayers

stated that neither of them were employed in the state of Idaho and had no income associated with the state of Idaho.

The Bureau requested and received copies of the taxpayers' Utah returns from the Utah State Tax Commission. The Bureau determined from this information that indeed the taxpayers were residents of Idaho and required to file Idaho individual income tax returns. However, in addition to being required to file Idaho returns, the taxpayers were also required to file Utah returns, which they did, and were entitled to a credit for taxes paid to Utah. The Bureau determined the credit available to the taxpayers, modified the returns it prepared, and sent a modified deficiency to the taxpayers with a protest withdrawal form. The taxpayers did not respond to the modified deficiency, so the Bureau referred the matter for administrative review.

The Tax Commission reviewed the matter and sent the taxpayers a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayers did not respond, so the Tax Commission sent them a follow-up letter. The taxpayers contacted the Tax Commission and asked why they were required to file Idaho income tax returns. The Tax Commission explained that individuals residing in Idaho and working in another state needed to file Idaho income tax returns because they were residents of Idaho. The Tax Commission also explained that a credit was available for income that was taxed by both Idaho and another state. The taxpayers stated that they would prepare and file their own income tax returns by the middle of February.

February came and went with no returns provided by the taxpayers. However, shortly thereafter, the taxpayers contacted the Tax Commission and said all their returns for 2003 to 2007 had been mailed to the Tax Commission. The taxpayers stated their returns were mailed on February 11, 2008, together in one packet to the Tax Commission's post office box. The Tax

Commission waited for the returns to arrive and process, but after several weeks, and a search of the incoming returns being processed, the only return of the taxpayers that was found was for the tax year 2007. The Tax Commission contacted the taxpayers and asked them to send copies of the other returns. The taxpayers stated they would send those copies that day or the next. The Tax Commission never received the copies of the returns. The Tax Commission attempted to contact the taxpayers three more times, but each time, the taxpayers either did not return the call or failed to respond to the Tax Commission's letter. Therefore, seeing that the taxpayers had ample opportunity to submit their income tax returns, the Tax Commission decided the matter based upon the information available.

The taxpayers admitted to being Idaho residents during the years in question. Idaho Code section 63-3002 states that residents of this state are taxed based upon their income from all sources. The taxpayers stated they worked in Utah and filed Utah income tax returns. Idaho Code section 63-3029 provides for a credit for taxes paid to another state for residents of Idaho. Since the taxpayers worked in Utah, they had Utah source income and were required to report that income to Utah as well as to Idaho. The copies of the taxpayers' Utah income tax returns are evidence of the income and the tax that the taxpayers reported to Utah.

The original returns the Bureau prepared for the taxpayers were based solely on the information obtained [Redacted]. The Bureau did not make any allowance for the taxes the taxpayers paid to Utah. However, when the Bureau received information from the taxpayers and the Utah State Tax Commission, it modified the returns to account for the taxes paid to Utah.

Since the taxpayers did not provide income tax returns of their own making, the Tax Commission finds that the original returns the Bureau prepared and the subsequent modifications to those returns are an accurate representation of the taxpayers' Idaho taxable income and Idaho

tax. Therefore, the Tax Commission upholds the Bureau's modified determination of the taxpayers' Idaho income tax.

The Bureau, in its letter modifying the Notice of Deficiency Determination, cancelled the deficiency for tax year 2004. The Bureau stated that 2004 was cancelled because no tax was due for that year. The Bureau was correct that no tax was due; however, what the Bureau failed to relate was that the 2004 return resulted in a refund.

The taxpayers protested the Notice of Deficiency Determination which included the 2004 tax year; consequently, the Tax Commission's decision must address that year as well as the 2003 and 2005 tax years. As previously stated, the Tax Commission found that the modified returns prepared by the Bureau were an accurate representation of the taxpayers' Idaho tax. That determination included the return for 2004. Since the Bureau's returns are deemed returns for the taxpayers (Idaho Code section 63-3068), and the Notice of Deficiency Determination was issued within the statute of limitations for issuing or crediting refunds (Idaho Code sections 63-3024A and 63-3072), the Tax Commission finds that the 2004 refund should be allowed to offset the tax due for the 2003 and 2005 tax years.

The Bureau added interest and penalty to the taxpayers' Idaho tax for 2003 and 2005. The Tax Commission reviewed those additions and found them appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046.

WHEREFORE, the Notice of Deficiency Determination dated August 14, 2007, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax, penalty, and interest (computed to October 15, 2008):

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2003	\$ 159	\$ 40	\$ 46	\$ 245
2004	( 70)	0	0	(70)
2005	1,765	441	297	<u>2,503</u>
			TOTAL DUE	<u>\$2,678</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayers' right to appeal this decision is enclosed.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

### **CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.

\_\_\_\_\_